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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,115	11/21/2001	Anthony Messina	998.816	2803

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EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/990,115

Applicant(s)

MESSINA ET AL.

Examiner

John J. Guarriello

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10/30/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-106 is/are pending in the application.
- 4a) Of the above claim(s) 27-51 and 73-106 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 52-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1/03, 7/02.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

15. The Examiner acknowledges the affirmation of Group I, claims 1-26, 52-72 with traverse. Group II, claims 27-39 and 73-82; Group III, claims 40-51, 83-91, and 102-106; Group IV, claims 92-96; and Group V, claims 97-101 are all withdrawn regarding the non-elected inventions.

Applicant's arguments regarding the issue that "it would not create an undue hardship on the Examiner to search Inventions I-V together" as the basis of the traversal have been considered, but they are not persuasive because the Examiner has shown that the inventions require separate classification as well as different fields of search, the Restriction requirement is made final for reasons of record.

### ***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-15, 16-26, 52-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWinter 6,071,619 in view of Leenslag et al. 6,335,379.

DeWinter describes the method of applying elastomeric skin materials, polyurethane (column 5, lines 20-30; column 6, lines 35-36). DeWinter describes the polyurethane can be applied by spraying in one layer, (column 6, lines 35-36). DeWinter describes spraying a second layer of polyurethane, (column 6, lines 40-44). DeWinter describes this method of spraying polyurethane as skin layers is utilized in the automotive industry for interior trim parts for the automotive industry which would correspond to the claimed firewall, dashboard insulator, floorcovering and upholstery. DeWinter differs from the claimed invention because it is silent about the sound attenuating properties.

Leenslag describes polyurethane foams which are used in automotive seating, (column 2, lines 24-27), as well as foams for sound

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insulation for automotive applications as well as vibration isolation, (column 8, lines 35-40). Leenslag describes the temperature ranges necessary for application of the polyurethane foams in order to meet particular needs for the sound insulation, (column 8, lines 22-27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of DeWinter with the flexible polyurethane foam of Leenslag motivated with the expectation that the application of the flexible polyurethane foam of Leenslag would improve the sound attenuation of the automotive applications regarding the claimed components of the claimed invention as noted, (column 8, lines 35-40) of Leenslag.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 571-272-1476. The examiner can normally be reached on 8 hr. flex.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0994.



January 8, 2004  
January 26, 2004

John J. Guarriello  
Patent Examiner  
Art Unit 1771



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700